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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,043	07/31/2001	Samuel Lim	PD-01-027	4260
7590	12/14/2004		EXAMINER	
Gates & Cooper LLP Howard Hughes Center 6701 Center Drive West, Suite 1050 Los Angeles, CA 90045			LEE, JOHN J	
			ART UNIT	PAPER NUMBER
			2684	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/919,043	LIM, SAMUEL	
	Examiner	Art Unit	
	JOHN J LEE	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 July 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Arguments/Amendments

1. The Applicant's arguments/amendments received on July 23, 2004 have been carefully considered but they are not persuasive because the teaching of the cited reference as set forth in the previous rejection reads on all new amended claimed limitation as claims 1 – 26. Thus, the finality of this Office Action is deemed proper.

Contrary to the assertions at pages 7 - 13 of the Arguments, claims 1, 12, and 23, are not patentable.

The claim does not require or limit, as during examination the USPTO must give claims their broadest reasonable interpretation.

Re Claims 1, 12, and 23: In response to applicant's arguments, the recitation "a wireless communication network transmitting digital data to a data reception device the wireless communication network comprising a plurality of terrestrial receivers and terrestrial transmitters, each serving a service region, a method of providing at least a portion of the digital data to the data reception device" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Re Claims 1, 12, and 23: The Examiner respectfully disagrees with Applicant's assertion that the Kelly et al. (US Patent number 6,650,869) does not teach the claimed invention "a wireless communication network having terrestrial receivers and transmitters". Contrary to Applicant's assertion, Kelly teaches any number of user terminals (PC, personal digital assistants, cellular phones, laptop computing devices) (see Fig. 1 and column 4, lines 53 – 65) have a plurality of wireless/wireline connection with transceivers (109 in Fig. 1) which are terrestrial transmitters receiving the digital data from satellite receiver (111 in Fig. 1), more specifically, the network operation center (wireless communication network) (113 in Fig. 1), information providers, transmits the digital multicast data to satellite receiver (111 in Fig. 1) through the satellite (107 in Fig. 1), and then the satellite receivers provide the received multicast data to the terrestrial transmitters (109) for transmitting the digital multicast data to the user terminals (see Fig. 1, 2 and column 5, lines 46 – column 6, lines 31), regarding the claimed invention.

Furthermore, Applicant argues that the Kelly does not teach the claimed invention "receiving a portion of the digital data (transmitted by the wireless communication network) in a satellite receiver". The Examiner respectfully disagrees with Applicant's assertion that the Kelly does not teach the claimed invention. Contrary to Applicant's assertion, Kelly teaches the satellite receivers (111 in Fig. 1) receive the portion of digital data (digital multicast package) from the wireless communication network (network operation center (113) as the digital multicast information providers, and satellite receiver (111 in Fig. 1) provides the received digital multicast package to the terrestrial transmitters (109 in Fig. 1) for transmitting the digital multicast data to user terminals,

PDA, laptop computer such that data reception devices (101 in Fig. 1) (see column 5, lines 38 – column 6, lines 31 and Fig. 1, 2), regarding the claimed invention.

Re claims 3, 14, and 24: Applicant argues that the Kelly does not teach the claimed invention “the wireless communication network is a cellular telephone network”. The Examiner respectfully disagrees with Applicant’s assertion that the Kelly does not teach the claimed invention. Contrary to Applicant’s assertion, Kelly teaches the user terminal can be a cellular telephone, PDA, or laptop computer (inherently the network that communicating with cellular telephone is cellular phone network) (see Fig. 1 and column 4, lines 53 – 65), regarding the claimed invention.

Re claims 4 and 15: Applicant also argues that the Kelly does not teach the claimed invention “determining if a transmission requirement of the digital data exceeds a capacity of wireless communication network”. The Examiner respectfully disagrees with Applicant’s assertion that the Kelly does not teach the claimed invention. Contrary to Applicant’s assertion, Kelly teaches the determining whether excess bandwidth (capacity) of wireless communication network (see Fig. 2 and column 37, lines 59 – column 38, lines 21), regarding the claimed invention.

Also, Applicant argues that the Kelly does not teach the claimed invention “transmission via a different path (a satellite receiver instead of baseline wireless communication) only when the transmission capacity of the wireless network is exceeded”. However, the limitation is not in the claim.

Applicant’s attention is directed to the rejection below for the reasons as to why the claimed limitation is not patentable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1 – 26** are rejected under 35 U.S.C. 102(e) as being anticipated by Kelly et al. (US Patent number 6,650,869).

Regarding **claims 1 and 12**, Kelly discloses that a wireless communication network (Fig. 1) transmitting digital data to a data reception device, the wireless communication network comprising a plurality of terrestrial receivers (111 in Fig. 1) and terrestrial transmitters (113 in Fig. 1), each serving a service region (Fig. 1), a method of providing at least a portion of digital data (digital multimedia data) to the data reception device (101 in Fig. 1) (column 5, lines 38 – 67 and Fig. 1). Kelly teaches that receiving the portion of the digital data (digital package multicast delivery) in a satellite receiver (111 in Fig. 1) (column 5, lines 38 – column 6, lines 14 and Fig. 1, where teaches the satellite system broadcasts digital multimedia service to a satellite receiver (111)). Kelly teaches that providing the received portion of the digital data (digital multimedia service) to at least one of the terrestrial transmitters (113 in Fig. 1) (column 5, lines 15 – column 6, lines 14 and Fig. 1, where teaches the satellite system transmits digital multimedia service to a satellite receiver (109) through terrestrial transceivers for servicing each

service area). Kelly teaches that transmitting the received portion of the digital data to the data reception device (101 in Fig. 1) within the service region using the terrestrial transmitter (column 5, lines 15 – column 6, lines 14 and Fig. 1).

Regarding **claim 2**, Kelly discloses that the satellite receiver (109 in Fig. 1) is communicatively coupled to the terrestrial transmitter (113 in Fig. 1) (column 5, lines 15 – column 6, lines 14 and Fig. 1, 2).

Regarding **claims 3, 14, and 24**, Kelly discloses that the wireless communication network is a cellular telephone network (Fig. 1 and column 4, lines 53 – column 5, lines 14).

Regarding **claim 4**, Kelly discloses that determining if a transmission requirement of the digital data exceeds a capacity of the wireless communication network (Fig. 7 and column 37, lines 59 – column 38, lines 21). Kelly teaches that performing above steps only if the transmission requirements of the digital data exceed the capacity of the wireless communication network (Fig. 7, 8 and column 37, lines 59 – column 38, lines 53).

Regarding **claims 5 and 16**, Kelly discloses all the limitation, as discussed in claims 1 and 4. Furthermore, Kelly further discloses that determining the transmission requirement for the portion of the digital data (column 37, lines 19 – column 38, lines 24 and Fig. 7). Kelly teaches that determining the transmission capacity of the wireless communication network (column 37, lines 59 – column 38, lines 24 and Fig. 7). Kelly teaches that comparing (configuring network capacity and bandwidth requirement) the

transmission requirements for the digital data with the transmission capacity of the wireless communication network (column 37, lines 59 – column 38, lines 24 and Fig. 7).

Regarding **claims 6 and 17**, Kelly discloses that providing the portion of the digital data to a satellite uplink (column 9, lines 50 – column 10, lines 58 and Fig. 4).

Kelly teaches that uplinking the portion of the digital data from the satellite uplink to a satellite (column 9, lines 50 – column 10, lines 58 and Fig. 4).

Regarding **claims 7 and 18**, Kelly discloses that the transmission requirement comprises a minimum bandwidth (column 37, lines 59 – column 38, lines 24 and Fig. 7).

Regarding **claims 8 and 19**, Kelly discloses that the transmission requirement comprises a size of the media program (Fig. 5 and column 15, lines 60 – column 16, lines 35).

Regarding **claims 9 and 20**, Kelly discloses that the transmission requirement comprises a quality of service (QoS) parameter (Fig. 9 and column 39, lines 19 – 62).

Regarding **claims 10 and 21**, Kelly discloses that the transmission requirement comprises a cost of service parameter (column 38, lines 25 – column 39, lines 18 and Fig. 8).

Regarding **claims 11 and 22**, Kelly discloses that receiving information describing in which service region the user is located (column 38, lines 25 – column 39, lines 18 and Fig. 8). Kelly teaches that transmitting the digital data only to a satellite receiver associated with the service region in which the data reception device is located (column 38, lines 25 – column 39, lines 47 and Fig. 8).

Regarding **claim 13**, Kelly discloses all the limitation, as discussed in claims 1 and 2.

Regarding **claim 15**, Kelly discloses all the limitation, as discussed in claims 1 and 4.

Regarding **claim 23**, Kelly discloses all the limitation, as discussed in claims 1 and 6. Furthermore, Kelly further discloses that a satellite antenna (111 in Fig. 1), for receiving a signal from a satellite (107) (Fig. 1 and column 4, lines 53 – column 5, lines 15). Kelly teaches that a satellite receiver (109 in Fig. 1) communicatively coupled to the satellite antenna (111 in Fig. 1) for detecting and demodulating the signal to produce the portion of the digital data, the satellite receiver communicatively coupled to the terrestrial transmitter (column 39, lines 19 – column 40, lines 32 and Fig. 9).

Regarding **claim 25**, Kelly teaches that the satellite antenna is disposed within the service region (column 39, lines 19 – column 40, lines 32 and Fig. 1, 9).

Regarding **claim 26**, Kelly teaches that the satellite antenna is disposed proximate the terrestrial transmitter (Fig. 1, 9 and column 39, lines 19 – column 40, lines 32).

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ikehama (US Patent number 5,555,443) discloses Satellite Communications Multi-Point Video Transmit System.

Jabbarnezhad (US Patent number 6,493,538) discloses Hybrid Satellite and Terrestrial Communication.

Willis et al. (US Patent number 6,584,082) discloses Article of Manufacture for Transmitting Data Over a Satellite.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(703) 306-5936**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on **(703) 308-7745**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-4700**.

J.L
December 02, 2004

John J Lee


NAY MAUNG
SUPERVISORY PATENT EXAMINER